

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 11/15/2012

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Modification No. 3 to SDA 2010-A

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 3 to the Supplemental Development Agreement TIF5 Series 2010-A between the City of Huntsville and LW Redstone Company, LLC.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: _____

Date: _____

RESOLUTION NO. 12-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 3 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 3 to Supplemental Development Agreement TIF5 Series 2010-A between the City of Huntsville and LW Redstone Company, LLC," consisting of four (4) pages including Attachment "A," and the date of November 15, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 15th day of November, 2012.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 15th day of November, 2012.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA
COUNTY OF MADISON

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**MODIFICATION NO. 3 TO THE
SUPPLEMENTAL DEVELOPMENT AGREEMENT
TIF5 – Series 2010-A TO ANNEXATION AND DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF HUNTSVILLE
AND LW REDSTONE COMPANY, LLC
AS ADOPTED AND APPROVED BY RESOLUTION No. 10-581
ON JULY 22, 2010 AND AS PREVIOUSLY AMENDED BY
MODIFICATIONS NO. 1 & 2**

MODIFICATION No. 3

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No.3 to the Supplemental Development Agreement TIF5-Series 2010-A which was previously adopted and approved on by Resolution No. 12-581 on July 22, 2010 January 26, 2012, amended by Resolution No. 10-891 on October 28, 2010, and Resolution No. 12-647 on July 26, 2012 hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$10,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B. add Legal Advertisement costs paid to the Huntsville Times for the Attached Legal Ad (See Attachment A) in the amount of \$212.10.
2. Within Section B. OWNER IMPROVEMENT, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED", the amount of \$51,450.00 allocated and budgeted for undefined engineering and construction costs is hereby decreased by the amount of \$212.10 or a revised total of \$ 51,237.90.

All other terms and conditions of the SDA TIF5-SERIES 2012-A2010-A remain unchanged.

(Signatures on following page)

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

(“OWNER”)

L W REDSTONE COMPANY, LLC

Dated: _____, 2012

By: _____

Its: _____

STATE OF MARYLAND)
COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2012.

(SEAL)

Notary Public
My Commission Expires: _____

(“CITY”)

THE CITY OF HUNTSVILLE, ALABAMA,
A municipal corporation

Dated: _____, 2012

By: _____

Tommy Battle
Mayor

ATTEST:

Charles E. Hagood
Clerk-Treasurer

STATE OF ALABAMA)

COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the 15th day of November, 2012.

(SEAL)

Notary Public

My Commission Expires: _____

ATTACHMENT "A"

Public Notice and Comments

The U.S. Army Garrison – Redstone Arsenal, Alabama has leased 468 acres of under-utilized land near Gate 9 along Rideout Road to L. W. Redstone Company LLC as an Enhanced Use Lease (EUL) for the development of the Redstone Gateway office, research and development, and conference park.

This public notice is the first step to ensure that L. W. Redstone is prepared to begin construction on schedule.

The Redstone Gateway EUL development is a priority in order to support the growing infrastructural needs of Redstone Arsenal as a result of BRAC 2005. The undertaking will include moving and expanding Gate 9, moving the railroad spur and electrical substation which are currently located within the lease area, moving the Redstone Arsenal perimeter fence to exclude a portion of the development, construction of around 4 million square feet of office and research space, and modification and construction of infrastructure to support the development.

The northern part of the proposed development area includes archaeological site 1Ma639, the historic Oakendale Plantation which operated from around 1820 to when the Army purchased the land in 1942.

The undertaking described above is a Federally sponsored project, and Redstone Arsenal has determined that it will have an adverse effect on archaeological site 1Ma639, a property eligible for listing on the National Register of Historic Places (NRHP). Site 1Ma639 is on Army-owned and managed land. The US Army will be the lead federal agency for this undertaking.

In order to better meet their Federal historic preservation responsibilities in managing these properties, as the lead Federal agency, Redstone Arsenal has consulted with the Alabama Historical Commission (AHC), 17 Native American tribes, and the Advisory Council on Historic Preservation (ACHP). The ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties when an undertaking will have an adverse impact to NRHP eligible historic properties. Those regulations are codified under 36 CFR Part 800 ("Section 106 regulations"). Redstone Arsenal and the Alabama State Historic Preservation Officer (ALSHPO) now seek public input on the undertaking. Redstone Arsenal and AHC will take into account this public input prior to signing a Memorandum of Agreement (MOA) for addressing adverse effects to historic properties resulting from construction of the development. Any comments on this undertaking must be received within 30 days of the date of publication of this public notice in the Huntsville Times in order to be considered. The draft MOA is available for review at the Redstone Arsenal Public Affairs Office by contacting Ms. Terri Stover. All comments should be sent to: Ms. Terri Stover, 5300 Martin Road, Building 5300, Room 5143, Redstone Arsenal, AL 35898. It is also available on the Redstone Arsenal Environmental Management Division website www.environmental.redstone.army.mil.

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 11/15/2012

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Mod. 3 to SDA TIF5 Series 2010-A

Document Name: Modification No. 3 to the SDA LW Redstone, TIF5 Series 2010A

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

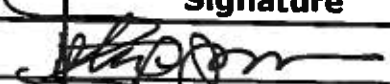

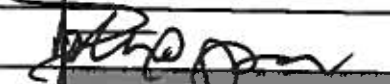
Account Number:

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating		11-14-12
2) Legal		11-14-12
3) Finance		
4) Originating		11-14-12
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		